

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL NO. 3:07-CV-00266-W**

**ATLANTIC SKANSKA, INC.,** )  
)  
**Plaintiff and Counterclaim** )  
**Defendant,** )

**vs.** )

**CITY OF CHARLOTTE, NORTH** )  
**CAROLINA, and CH2M HILL, INC.,** )  
)  
**Defendants.** )

**ORDER**

---

**ATLANTIC SKANSKA, INC.,** )  
)  
**Third Party Plaintiff,** )  
)  
**v.** )  
)  
**ENVIRONMENTAL DYNAMICS, INC.,** )  
)  
**Third Party Defendant.** )

---

THIS MATTER comes now before the Court upon Memorandum and Recommendation (M&R) of United States Magistrate Judge Carl Horn, III, recommending that Defendant City of Charlotte’s “Motion to Dismiss” (Doc. No. 13), filed August 24, 2007, be denied as moot after it ordered that Plaintiff’s Motion for Leave to File its First Amended Complaint (Doc. No. 18) be granted. The time for filing objections as provided in 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b) has expired, and no objections have been filed by either party.

The district court conducts a *de novo* review of those portions of a magistrate judge’s M&R to which specific objections are filed. 28 U.S.C. § 636(b). “[I]n the absence of a timely filed


objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005). Upon careful review of the record, “the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(c).

After a careful review of the record, the Court finds that the magistrate judge’s findings and recommendations are neither clearly erroneous nor inconsistent with governing law. Thus, the Court hereby accepts the M&R of Magistrate Judge Horn and adopts it as the final decision of this Court for all purposes relating to this case.

IT IS, THEREFORE, ORDERED that Defendant’s Motion to Dismiss (Doc. No. 13) is DENIED AS MOOT.

IT IS SO ORDERED.

Signed: October 30, 2007

  
Frank D. Whitney  
United States District Judge

